

City: Keep original and provide copy of both sides, along with Public Summary, to requestor at no charge.

City of Portage
Public Safety
7810 Shaver Rd.
Portage, MI 49024
269-329-4568

Denial Form

FOIA-PublicSafety@portagemi.gov

Notice of Denial or Data Redaction of FOIA Request

Michigan Freedom of Information Act, Public Act 442 of 1976, MCL 15.231, et seq.

Case No.: **No Case #** Date Received: 11/13/2019 Check if received via: ☒ Email ☐ Fax ☐ Other Electronic Method

Date of This Notice: 11/13/2019

Date delivered to junk/spam folder: _____

Name Dave Maass	Phone
Firm/Organization MuckRock News Dept MR 83191	Fax
Street 411A Highland Ave	Email 83191-42760572@requests.muckrock.com
City Somerville	State MA Zip 02144-2516

(Please Print or Type)

Date discovered in junk/spam folder: _____

Request for: ☒ Copy ☐ Certified copy ☐ Record inspection ☐ Subscription to record issued on regular basis

Delivery Method: ☐ Will pick up ☐ Will make own copies onsite ☐ Mail to address above ☐ Email to address above
☐ Deliver on digital media provided by the City:

Record(s) You Requested: (Listed here or see attached copy of original request) Automated License Plate Reader Data.

☒ All OR ☐ Part of your request for records has been denied. Please refer to attached form for an explanation. If you have any questions regarding this denial, contact Jacqueline at 269-329-4568.

Reason for Denial or Redaction:

☐ 1. Exempt from Disclosure: This item is exempt from disclosure under FOIA Section 13, Subsection _____ (insert number) because: SEE ATTACHED.

☒ 2. Record Does Not Exist: This item does not exist under the name provided in your request or by another name reasonably known to the City. A certificate that the public record does not exist under the name given is attached. If you believe this record does exist, provide a description that will enable us to locate the record: See additional comments.

☐ 3. Redaction: A portion of the requested record had to be separated or deleted (redacted) as it is exempt under FOIA Section 13, Subsection _____ (insert number), because: SEE ATTACHED.

Notice of Requestor's Right to Seek Judicial Review

You are entitled under Section 10 of the Michigan Freedom of Information Act, MCL 15.240, to appeal this denial to the Portage City Council or to commence an action in the Circuit Court to compel disclosure of the requested records if you believe they were wrongfully withheld from disclosure. If, after judicial review, the court determines that the township has not complied with MCL 15.235 in making this denial and orders disclosure of all or a portion of a public record, you have the right to receive attorneys' fees and damages as provided in MCL 15.240. (See back of this form for additional information on your rights.)

Signature of FOIA Processor: 

Date: 11/13/19

FREEDOM OF INFORMATION ACT (EXCERPT)

Act 442 of 1976

15.240.amended Options by requesting person; appeal; actions by public body; receipt of written appeal; judicial review; civil action; venue; de novo proceeding; burden of proof; private view of public record; contempt; assignment of action or appeal for hearing, trial, or argument; attorneys' fees, costs, and disbursements; assessment of award; damages.

Sec. 10.

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

History: 1976, Act 442, Eff. Apr. 13, 1977 ;-- Am. 1978, Act 329, Imd. Eff. July 11, 1978 ;-- Am. 1996, Act 553, Eff. Mar. 31, 1997 ;-- Am. 2014, Act 563, Eff. July 1, 2015.

DENIAL OR REDACTION OF RECORDS:

Denial is based on the following provision(s) of the Freedom of Information Act. MCL 15.243, Sec. 13(1). (All that apply will be checked).

- ☐ (a) Information of a personal nature where the public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.
☐ telephone number(s) ☐ address(es) ☐ date(s) of birth ☐ physical characteristics
☐ driver license number(s) ☐ other
- ☐ (b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure would do any of the following:
☐ (i) Interfere with law enforcement proceedings.
☐ (ii) Deprive a person of the right to a fair trial or impartial administrative adjudication.
☐ (iii) Constitute an unwarranted invasion of personal privacy.
☐ (iv) Disclose the identity of a confidential source, or if the record is compiled by a law enforcement agency in the course of a criminal investigation, disclose confidential information furnished by a confidential source.
☐ (vi) Endanger the life or physical safety of law enforcement personnel.
☐ The investigation is not yet completed and filed, please resubmit your request in 30 days.
- ☐ (d) Records or information specifically described and exempted from disclosure by Statute .
- ☐ (m) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to final agency determination of policy or action.
- ☐ (n) Records of law enforcement communication codes, or plans for deployment of law enforcement personnel, that if disclosed would prejudice a public body's ability to protect the public.
- ☐ (s) Unless the public interest in disclosure outweighs the public interest in non disclosure in the particular instance, public records of law enforcement agency, the release of which would do any of the following:
☐ (i) Identify or provide a means of identifying an informer.
☐ (ii) Identify or provide a means to identify a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.
☐ (viii) Identify or provide a means of identifying a person as a law enforcement officer, agent or informer.
☐ (ix) Disclose personnel records of law enforcement agencies.
- ☐ (u) Records of a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.
- ☐ (v) Disclose law enforcement investigative techniques or procedures
- ☐ (w) Information or records that would disclose the social security number of any individual.
- ☐ Your request is denied under the authority of Section 13(1)(a) above. However, if you provide a notarized, signed release of information from the individual to whom the records pertain, you will receive that information to which the individual signing the release is entitled.
- ☒ To the best of the Department's knowledge, information, and belief, under the information provided by your or by any other description reasonably known to the Department, the public records do not exist within the Department.

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- ☐ Based on the information you provided, we are unable to locate any records pertaining to the incident you described. In order for us to continue processing your request, please comply with the following items. To ensure proper handling of your request, please include a copy of this letter with your response
- ☐ Specific location (i.e. city, county)
☐ Portage Department of Public Safety report/incident number
☐ Names of those involved in the incident
☐ Name of driver and their date of birth or driver license number
☐ Date of birth

Additional comments: We do not have automated license plate readers therefore we are unable to supply the information you are requesting.